

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:20-CV-481-BO

L.P., a minor and through her guardian,)
et al.,)
)
)
Plaintiffs,)
)
v.)
)
WAKE COUNTY BOARD OF)
EDUCATION, et al.,)
Defendants.)

ORDER

This cause comes before the Court on plaintiffs' motion for an extension of time to serve summons for the original and amended complaint on the individual defendants Barbara Liggett and Cam Lopes.

DISCUSSION


Rule 4 of the Federal Rules of Civil Procedure provides that proper service must be effected on a defendant within ninety days after the complaint is filed. Fed. R. Civ. P. 4(m). If proper service is not made within ninety days, the court must dismiss the action without prejudice after notice to the plaintiff or order that service be made within a specified time. *Id.* If the plaintiff has shown good cause, however, the court must extend the time for a reasonable period. *Id.* Good cause for failure to comply with Rule 4 generally is determined on a case-by-case basis and is within this Court's discretion. *Scott v. Maryland State Dep't of Labor*, 673 F. App'x 299, 306 (4th Cir. 2016).

The Court, in its discretion, determines that plaintiffs have demonstrated that good cause exists for having failed to effect service within ninety days of the filing of the amended complaint. Plaintiff relied on the Wake County Sheriff's Office for service, and other courts have found that

the Marshals Service's failure to complete service created good cause for an extension. *Graham v. Satkoski*, 51 F.3d 710, 713 (7th Cir. 1995). Additionally, the Court has considered the Fourth Circuit's strong preference that cases be decided on the merits. *Choice Hotels Int'l, Inc. v. Goodwin & Boone*, 11 F.3d 469, 471–72 (4th Cir. 1993).

Accordingly, the motion for extension of time to serve defendants Barbara Liggett and Cam Lopes [DE 25] is GRANTED. Plaintiffs have through and including May 20, 2021 to serve these defendants with the amended complaint.

SO ORDERED, this 19 day of April, 2021.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE